

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF CHESTERFIELD

FRANCES J. BELISLE AND PIERRE
BELISLE,

Plaintiff,

v.

Case No. CL18000941-00

ANGELA BAXTER, MICHAEL
WHITTINGTON, LAWRENCE COSTELLO
AND DONALD R. KYLES,

Defendant.

OBJECTION TO VENUE AND MOTION TO TRANSFER VENUE

Defendants, Laura Baxter, wrongly identified as Angela Baxter, Michael Whittington and Lawrence Costello, by counsel, pursuant to Virginia Code §§8.01-262, 264 and 265, and in response to the Complaint, object to venue of this action in the Circuit Court for the County of Chesterfield and move to transfer venue to the Circuit Court for the City of Hopewell on the following grounds:

1. This matter arises out of incidents between the parties in the City of Hopewell. Plaintiff Frances Belisle alleges that Defendants Baxter and Whittington, employees of City of Hopewell, maliciously prosecuted her, falsely imprisoned her, defamed her and used insulting words in violation of Virginia Code §8.01-45, in the City of Hopewell. Plaintiff Pierre Belisle alleges that Defendants Costello, an employee of City of Hopewell, maliciously prosecuted him, defamed him and used insulting words in violation of Virginia Code §8.01-45, in the City of Hopewell.

EXHIBIT

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2. The Complaint further alleges that Defendants Baxter, Costello and Whittington reside in the City of Hopewell and that at all times relevant to this action, were employed as City of Hopewell police officers. (Complaint ¶ 5).
3. The alleged incident occurred in the City of Hopewell, at the Hopewell High School. (Complaint ¶ 9). In addition, the alleged arrest, issuance of the warrants, and the prosecution occurred in the City of Hopewell. (Complaint ¶¶ 9, 27, 28, 55, 62, 72, 81 and 82).
4. In addition, there are no factual allegations to support their conclusory allegation that the County of Chesterfield is a proper venue. (Complaint ¶ 8).
5. Chesterfield County is not a Category A preferred venue under Virginia Code §8.01-261.
6. While Plaintiffs allege that they reside in Chesterfield County, such a forum is only permissible when and if the defendants are unknown and/or nonresidents of the Commonwealth, or if there is no other forum available under any provisions of Virginia Code §§8.01-261 or 262.
7. Plaintiffs purports to establish venue in the County of Chesterfield by reference to the alleged “re-publication” of the allegedly defamatory statements by Defendants. However, the Complaint fails to allege that the “re-publication” was broadcasted or viewed in the County of Chesterfield. Instead, the Complaint alleges that one was published in the Petersburg Progress-Index, and the other, published in a report by WTVR. (Complaint ¶¶ 45 and 49). Thus, venue in the County of Chesterfield is improper.

8. The City of Hopewell is the proper and permissible venue under Virginia Code § 8.01-262, as the cause of action arose in the City of Hopewell, and Defendants Baxter, Whittington, Costello and Kyle are alleged to be residents of City of Hopewell, with their principal places of business in the City of Hopewell. (Complaint ¶¶ 5 and 6).
9. Even if venue were proper in Chesterfield, the Court should transfer venue to the City of Hopewell. Virginia Code § 8.01-265 provides that “upon motion by any party and for good cause shown,” the court can transfer this action “to any fair and convenient forum having jurisdiction within the Commonwealth.” There is good cause to transfer this action to the Circuit Court for the City of Hopewell, as described above.

WHEREFORE, Defendants Laura Baxter, Michael Whittington and Lawrence Costello, respectfully request that this Court sustain their objection to venue, grant their motion to transfer venue, and transfer this action to the Circuit Court for the City of Hopewell.

**LAURA BAXTER, MICHAEL
WHITTINGTON AND LAWRENCE
COSTELLO**

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CERTIFICATE

I hereby certify that a true copy of the foregoing was emailed and mailed this 24th day of July, 2018 to:

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